

117TH CONGRESS  
2D SESSION

# H. R. 8306

To amend the Communications Act of 1934 to permit State attorneys general to recover forfeiture penalties determined by the Federal Communications Commission for certain violations of section 227(b) of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2022

Mr. HUDSON introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Communications Act of 1934 to permit State attorneys general to recover forfeiture penalties determined by the Federal Communications Commission for certain violations of section 227(b) of such Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-  
2 tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Infringements  
5 Need Enforcement Act” or the “FINE Act”.

1   **SEC. 2. RECOVERY BY STATE ATTORNEYS GENERAL OF**  
2           **CERTAIN FORFEITURE PENALTIES DETER-**  
3           **MINED BY FCC.**

4       (a) IN GENERAL.—Section 227(b) of the Commu-  
5 nlications Act of 1934 (47 U.S.C. 227(b)) is amended by  
6 adding at the end the following:

7           “(5) RECOVERY BY STATE ATTORNEYS GEN-  
8 ERAL OF FORFEITURE PENALTIES FOR VIOLATIONS  
9 WITH INTENT.—

10          “(A) CIVIL ACTION.—In any case in which  
11 a State attorney general has reason to believe  
12 that an interest of the residents of such State  
13 has been adversely affected by a violation de-  
14 scribed in paragraph (4)(B) for which the Com-  
15 mission has determined a forfeiture penalty  
16 under such paragraph, the State attorney gen-  
17 eral may bring a civil action on behalf of the  
18 residents of such State exclusively in a district  
19 court of the United States of appropriate juris-  
20 diction to recover any unpaid amount of such  
21 forfeiture penalty.

22          “(B) DEPOSIT OF FUNDS IN TREASURY;  
23 RETENTION OF COSTS.—

24           “(i) DEPOSIT.—Except as provided in  
25 clause (ii), a State attorney general shall,  
26 not later than 30 days after recovering any

1                   funds in a civil action under subparagraph  
2                   (A), deposit such funds in the general fund  
3                   of the Treasury of the United States for  
4                   the sole purpose of deficit reduction.

5                   “(ii) RETENTION.—A State attorney  
6                   general who recovers any funds in a civil  
7                   action under subparagraph (A) may retain  
8                   an amount of such funds equal to the  
9                   amount of costs incurred by the State at-  
10                  torney general in bringing such action.

11                  “(C) CONSOLIDATION OF ACTIONS  
12                  BROUGHT BY TWO OR MORE STATE ATTORNEYS  
13                  GENERAL.—

14                  “(i) IN GENERAL.—Except as pro-  
15                  vided in clause (ii), whenever a civil action  
16                  under subparagraph (A) is pending and  
17                  another civil action or actions are filed  
18                  under such subparagraph in a different  
19                  district court or courts of the United  
20                  States that involve one or more common  
21                  questions of fact, a defendant in such ac-  
22                  tions may elect for all such actions (or, if  
23                  the Attorney General of the United States  
24                  has intervened in two or more such actions  
25                  under subparagraph (D), the Attorney

1 General of the United States may elect for  
2 all such actions in which the Attorney Gen-  
3 eral of the United States has intervened)  
4 to be transferred for the purposes of con-  
5 solidated pretrial proceedings and trial to  
6 the United States District Court for the  
7 District of Columbia.

8 “(ii) EXCEPTION.—An action de-  
9 scribed in clause (i) may not be transferred  
10 under such clause if pretrial proceedings in  
11 such action have been concluded before a  
12 subsequent action described in such clause  
13 is filed by a State attorney general. Noth-  
14 ing in this clause may be construed to pro-  
15 hibit the transfer of any other action de-  
16 scribed in clause (i).

17 “(D) NOTICE TO AND INTERVENTION BY  
18 ATTORNEY GENERAL OF THE UNITED  
19 STATES.—

20 “(i) NOTICE.—A State attorney gen-  
21 eral shall provide prior written notice of  
22 any civil action under subparagraph (A) to  
23 the Attorney General of the United States  
24 and provide the Attorney General of the  
25 United States a copy of the complaint of

1                   the State attorney general in such action,  
2                   except in any case in which such prior no-  
3                   tice is not feasible, in which case the State  
4                   attorney general shall serve such notice im-  
5                   mediately upon filing such action.

6                   “(ii) RIGHT TO INTERVENE.—The At-  
7                   torney General of the United States shall  
8                   have the right to intervene in a civil action  
9                   filed by a State attorney general under  
10                  subparagraph (A).

11                  “(iii) EFFECT OF INTERVENTION.—

12                  “(I) IN GENERAL.—If the Attor-  
13                  ney General of the United States in-  
14                  tervenes in an action filed by a State  
15                  attorney general under subparagraph  
16                  (A), the Attorney General of the  
17                  United States shall have the primary  
18                  responsibility for prosecuting the ac-  
19                  tion, and shall not be bound by an act  
20                  of the State attorney general. The  
21                  State attorney general shall have the  
22                  right to continue as a party to the ac-  
23                  tion, subject to the limitations set  
24                  forth in subclauses (II) through (IV).

1                         “(II) DISMISSAL.—The Attorney  
2                         General of the United States may dis-  
3                         miss the action notwithstanding the  
4                         objections of the State attorney gen-  
5                         eral if the State attorney general has  
6                         been notified by the Attorney General  
7                         of the United States of the filing of  
8                         the motion and the court has provided  
9                         the State attorney general with an op-  
10                         portunity for a hearing on the motion.

11                         “(III) LIMITATION OF PARTICI-  
12                         PATION ON SHOWING BY ATTORNEY  
13                         GENERAL OF THE UNITED STATES.—  
14                         Upon a showing by the Attorney Gen-  
15                         eral of the United States that unre-  
16                         stricted participation during the  
17                         course of the litigation by the State  
18                         attorney general would interfere with  
19                         or unduly delay the prosecution of the  
20                         case by the Attorney General of the  
21                         United States, or would be repeti-  
22                         tious, irrelevant, or for purposes of  
23                         harassment, the court may, in its dis-  
24                         cretion, impose limitations on the par-

ticipation by the State attorney general, such as—

“(bb) limiting the length of  
the testimony of such witnesses;

#### “(IV) LIMITATION OF PARTICIPATION ON SHOWING BY DEFENDANT.—

16                   Upon a showing by the defendant that  
17                   unrestricted participation during the  
18                   course of the litigation by the State  
19                   attorney general would be for pur-  
20                   poses of harassment or would cause  
21                   the defendant undue burden or unnec-  
22                   essary expense, the court may limit  
23                   the participation by the State attorney  
24                   general in the litigation.

1               “(E) RELATIONSHIP BETWEEN FEDERAL  
2               AND STATE ACTIONS.—

3               “(i) NO FEDERAL ACTION AFTER  
4               STATE ACTION FILED.—After a civil action  
5               under subparagraph (A) has been filed by  
6               a State attorney general, the Attorney  
7               General of the United States may not  
8               bring a separate action under section  
9               504(a) to recover the same forfeiture pen-  
10               alty against a defendant named in the civil  
11               action filed by the State attorney general.

12               “(ii) NO STATE ACTION AFTER FED-  
13               ERAL ACTION FILED OR INTERVENTION BY  
14               ATTORNEY GENERAL OF THE UNITED  
15               STATES.—If the Attorney General of the  
16               United States has filed a civil action under  
17               section 504(a) to recover a forfeiture pen-  
18               alty determined under paragraph (4)(B), a  
19               State attorney general may not bring a  
20               civil action under subparagraph (A) to re-  
21               cover the same forfeiture penalty against a  
22               defendant named in the action filed by the  
23               Attorney General of the United States. If  
24               the Attorney General of the United States  
25               has intervened in a civil action brought by

1           a State attorney general under subparagraph (A) to recover a forfeiture penalty  
2           determined under paragraph (4)(B), no  
3           additional State attorney general may  
4           bring a civil action under such subparagraph to recover the same forfeiture pen-  
5           alty against a defendant named in the civil  
6           action intervened in by the Attorney Gen-  
7           eral of the United States.

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9  
10          “(F) TRIAL DE NOVO.—Any action by a  
11         State attorney general under subparagraph (A)  
12         shall be a trial de novo.

13          “(G) NOTICE BY COMMISSION TO STATE  
14         ATTORNEYS GENERAL.—Not later than 60 days  
15         after determining a forfeiture penalty under  
16         paragraph (4)(B), the Commission shall provide  
17         notice of such forfeiture penalty to relevant (as  
18         determined by the Commission) State attorneys  
19         general.

20          “(H) RULE OF CONSTRUCTION.—For pur-  
21         poses of bringing a civil action under subparagraph (A), nothing in this paragraph shall be  
22         construed to prevent a State attorney general  
23         from exercising the powers conferred on the

1           State attorney general by the laws of such State

2           to—

3                 “(i) conduct investigations;

4                 “(ii) administer oaths or affirmations;

5                 or

6                 “(iii) compel attendance of witnesses

7                 or the production of documentary and

8                 other evidence.

9                 “(I) STATE ATTORNEY GENERAL DE-

10                 FINED.—In this paragraph, the term ‘State at-  
11                 torney general’ means the chief legal officer of  
12                 a State.”.

13                 (b) CONFORMING AMENDMENTS.—The Communi-  
14                 cations Act of 1934 (47 U.S.C. 151 et seq.) is amended—

15                         (1) in section 227(b)(4)(C), by inserting “para-

16                         graph (5) or” after “recoverable under”; and

17                         (2) in section 504—

18                                 (A) in subsection (a)—

19   (i) by inserting “or as otherwise pro-  
20   vided in section 227(b)(5) of this Act”  
21   after “under section 503(b)(3) of this  
22   Act”; and

23   (ii) by striking “It shall be” and in-  
24   serting “Except as provided in section  
25   227(b)(5) of this Act, it shall be”; and

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